

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Rural Call Completion)	WC Docket 13-39
_____)	

COMMENTS OF IOWA NETWORK SERVICES, INC.

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SUMMARY

The Commission granted Iowa Network Services a Section 214 Certificate for the purpose of improving telecommunications services for consumers in rural LEC exchanges. Consequently, INS has a strong interest in helping the Commission prevent rural call completion problems that threaten to undermine the quality of life in rural America.

The Commission clearly has the statutory authority to adopt its proposed record retention and data reporting requirements. Furthermore, as discussed below, the Commission should also exercise its Title II and ancillary Title I authority to apply minimum federal standards for call quality and call completion to all service providers, including VoIP providers.

While the Commission's proposed record retention and data reporting requirements are a positive first step, INS urges the Commission to consider alternative approaches that supplement the proposed rules and more directly prevent further call degradation. Specifically, minimum federal standards for call completion and call quality will help ensure a swift end to further uncompleted calls.

INS recommends that data be electronically exchanged with the Commission each month. The reported data should be accessible to the public and consist of all call attempts by terminating exchange and the names of all intermediary providers. Because INS' systems cannot determine where and when the terminating location routing number ("LRN") is added to the call, INS is unable to measure call attempts by terminating OCN. The electronic exchange of raw data will avoid the burden of developing software to make the many calculations in the Commission's proposed reports. Furthermore, rather than the proposed 100 call attempt threshold, data on all call attempts is needed to help avoid the serious damage that would result if there were even 100 blocked calls to a small, rural exchange. INS agrees with the Commission's

proposal to broadly define the types of call attempts that will be reported in order ensure access to the data necessary to resolve the uncompleted call problems.

In light of the multiple service providers that can be involved in the degradation of a single call, the new rules, in order to be effective, must apply to all intermediary providers regardless of size, including resellers, one-way VoIP providers, and interconnected VoIP providers. The Commission should reject its two proposed safe harbors as they would exempt most service providers from the new rules and certification is not an effective substitute for reporting the actual call attempt data to the Commission.

The Commission should not adopt an expiration date for the proposed regulations. Call degradation is inflicting serious injury upon our nation, and like a disease, requires a constant regime of strong medicine to restore the health of our nation's telecommunications network.

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Iowa Network Services, Inc. (“INS”) hereby submits comments in response to the Commission’s Notice of Proposed Rulemaking proposing rules to help alleviate rural call completion problems.¹

Nearly 30 years ago, INS was established to improve the availability and quality of telecommunications services for consumers served by rural local exchange carriers (“LECs”). In light of its mission, INS is uniquely qualified to submit these comments proposing new Commission rules to protect rural telecommunications services and consumers against call impairment and other call completion problems. INS is fully committed to helping the Commission stop the insidious call degradation being inflicted on rural communities by certain unscrupulous carriers.

¹ *Rural Call Completion, Notice of Proposed Rulemaking*, 28 FCC Rcd 1569 (2013) (“*NPRM*”).

communications services and competition to rural areas of Iowa.² The Commission granted INS a Section 214 Certificate, which still governs INS' operations today, to construct a substantial fiber optic network. The INS fiber optic network provides a bridge between the exchanges of nearly all the rural Iowa LECs and the full range of interexchange carriers ("IXCs"), commercial mobile radio service ("CMRS") providers, internet protocol television ("IPTV") service providers, competitive local exchange carriers ("CLECs"), and broadband internet service providers that want to provide service to rural Iowa communities. INS' fiber CEA network connects the facilities of these communications and information service providers to more than 300 exchanges operated by more than 100 rural LECs. The INS network consists of state-of-the-art, bi-directional fiber rings employing SS7 signaling. INS operates 5 diversely routed bi-directional fiber rings traversing over 2,700 route miles of fiber. This redundancy creates a durable and reliable network.

In granting INS authority to operate, the Commission and the Iowa Utilities Board determined that the benefits of rural traffic concentration, for both originating and terminating traffic, served the public interest by making rural areas more attractive markets from the perspective of competitive service providers. Through this network, communications and information service providers are able to indirectly connect to the rural LECs' local network facilities through one or more convenient points of interconnections ("POIs") established with the INS CEA network. Because the CEA network aggregates traffic for many rural telephone lines, communications and information service providers have the choice of reaching thousands

² *Application of Iowa Network Access Division for Authority Pursuant to Section 214 of the Communications Act of 1934 and Section 63.01 of the Commission's Rules and Regulations to Lease Transmission Facilities to Provide Access Service to Interexchange Carriers in the State of Iowa, Memorandum Opinion, Order and Certificate*, 3 FCC Rcd. 1468, 1471 ¶¶ 21, 23 (1988), *aff'd on recon.*, 4 FCC Rcd 2201 (1989); *Iowa Network Access Division, Division of Iowa Network Services*, Iowa Utilities Board Docket No. RPU-88-2, 1988 Iowa PUC LEXIS 1 (1988), *aff'd on appeal*, *Northwestern Bell Tel. Co. v. Iowa Utilities Board*, 477 N.W.2d 678, 681 (Iowa 1991).

of customers in hundreds of rural communities through a single CEA connection. This concentration of traffic, made possible by CEA, has succeeded in providing consumers in rural LEC service areas with an attractive choice of several IXCs and has increased the availability of a variety of competitive service offerings. The benefits of the CEA network as recognized by the Commission and the Iowa Utilities Board remain today.

INS' fiber optic network connects to redundant CEA tandems, which enable INS to produce substantial cost savings for the telecommunications industry, and ultimately consumers, by centralizing rural access to advanced features and functionalities and avoiding the costs of deploying expensive equipment and software on a rural exchange by rural exchange basis. By installing equal access functionality and other expensive features at the CEA switch, INS allows the rural LECs in Iowa to avoid the need to install duplicative operating systems and equipment. Instead of modifying each LEC end office to provide equal access, the recording of terminating traffic, or other expensive features, the functionality is installed once in the CEA network. CEA has therefore reduced the overall costs for the telecommunications industry, which would have been borne by IXCs and other service providers, and ultimately end users, if the end office switch in each small town and rural area was required to duplicate the advanced features and functionalities provided at the CEA tandems.

Since its inception, INS has continuously worked with rural telephone companies and communities to improve communications service in all areas. This includes facilitating the deployment of high quality broadband by expanding INS' network, increasing bandwidth, and keeping pace with technology to minimize costs and maximize efficiencies. INS' initial challenge was to provide rural residents with a choice of long distance carriers by centralizing equal access functionality and concentrating rural traffic sufficiently to make rural areas

attractive for IXC's to serve. Equal access functionality could not be deployed by rural LECs in a cost effective manner because LEC switching facilities varied significantly as to vendor, feature, and capability; rural LECs faced restraints on capital; and IXC's were unwilling to make their competitive long distance services available and interconnect with rural LECs that served few customers with relatively low traffic volumes. The CEA network succeeded in attracting multiple IXC's to offer their services to rural residents, and still provides, efficient and cost effective equal access to the rural communities in Iowa. Subsequently, the advantages of the CEA network have enabled rural access to additional new services, including VOIP, ISDN, ATM/frame relay services, host/remote switching, alarm monitoring and network management services, video conferencing, video transport, and special access. As described by the Iowa Supreme Court, "[t]he network will also offer 'modern information systems' to the [Participating Telephone Companies], another feature formerly unavailable because of the thinness of the market in any single independent, local telephone company prior to the INS collectivization." *Northwestern Bell Tel. Co. v. Iowa Utilities Board*, 477 N.W.2d at 681. Because the CEA network allows advanced services to be installed on a statewide basis, and not on an individual company switching office basis, they can be installed and maintained more efficiently and quickly.

CEA traffic aggregation and single source of network functionality provide efficiencies and cost savings for all types of communications companies that seek to compete in rural areas, including IXC's, CMRS providers, CLECs, IPTV providers, and broadband providers. These service providers, through utilization of the CEA facilities and tandem services of INS, are able to interconnect with each of the subtending rural LEC networks without having to establish separate direct interconnection arrangements with each of the rural LECs. INS also provides

centralized technical expertise, simplified switch provisioning, and centralized recording, which minimize costs for all companies that want to compete in rural areas. INS supports simplified CARE and ASR processing; efficient traffic management, and economical facilities provisioning. Similar benefits will be realized from CEA as the nation's network transitions to all-Internet Protocol ("IP"). The CEA network will simplify carrier conversion to IP by reducing the number of direct connection points.

INS' advanced CEA network supports economic development that helps to expand and sustain rural communities. The statewide backbone network maintained by INS supports IXCs and other providers of services to state, county and city governments; public safety, state dispatch and 911; K-12 education; higher education, including research networks; health care, including collaborative support for rural clinics and hospitals; secure data transfers for banks; agriculture, including ethanol and animal research; and business, including high technology companies. Without INS' centralized network and supporting systems these rural communities and the communications companies that serve them would not be able to offer the quantity and quality of services that they can today.

INS remains committed to ensuring that Iowa's rural communities retain access to advanced communications services at affordable prices. The recent problems with completing long distance calls to rural Iowa threatens to reverse the decades of hard work that it has taken to achieve the current quality of rural communications. Therefore, INS has a strong interest in helping the Commission adopt new rules in this proceeding that will prevent rural call completion problems from undermining the contributions that INS has made to improving our nation's telecommunications network.

II. The Communications Act Authorizes the Commission to Adopt Rules for the Purpose of Preventing Call Degradation that Violates Title II.

The Commission requests comments regarding its statutory authority for adopting the rules it has proposed in this proceeding.³ As the Commission correctly points out, the Commission has authority to require telecommunications carriers to comply with Sections 201(b) and 202(a) of the Communications Act (“Act”), 47 U.S.C. §§ 201(b), 202(a).⁴ On February 6, 2012, the Commission clarified in a Declaratory Ruling that “it is an unjust and unreasonable practice in violation of section 201 of the Act for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problem or to fail to ensure that intermediate providers, least-cost routers, or other entities acting for or employed by the carrier are performing adequately.” *Developing a Unified Intercarrier Compensation Regime*, 27 FCC Rcd 1351, 1355 ¶ 12 (2012). The Commission further clarified that “adopting or perpetuating routing practices that result in lower quality service to rural or high-cost localities than like service to urban or lower cost localities (including other lower cost rural areas) may, in the absence of a persuasive explanation, constitute unjust or unreasonable discrimination in practices, facilities, or services and violate section 202 of the Act.” *Id.* at 1357 ¶ 14.

A carrier’s failure to take corrective action to prevent uncompleted calls also violates Sections 201(a) and 251(a)(1) of the Act. Call degradation violates a carrier’s duty under Section 201(a) “to furnish such communications service upon reasonable request” and to establish “through routes” and “physical connections with other carriers.” Furthermore, allowing call failures to rural areas to go unresolved denies telephone customers the intended benefits of

³ *NPRM* ¶ 19.

⁴ *Id.*

telecommunications interconnection under Section 251(a). Congress clearly authorized the Commission to enforce Section 201(a), 201(b), 202(a), and 251(a)(1) of the Act.

Several sections of the Act authorize the Commission to institute proceedings like this one and adopt rules to ensure compliance with Title II of the Act. The Commission may “institute an inquiry” under Section 403 concerning “any question” that may arise under the Act or “relating to the enforcement of any of the provisions of this Act.” To ensure carriers honor every consumer’s reasonable request to communicate with a rural area, the Commission is authorized by Section 201(a) to establish regulations requiring carriers to maintain the quality and integrity of “through routes.” The record retention requirements proposed in this proceeding are authorized by Section 220(a), which grants the Commission the discretion to prescribe the records that must be kept by carriers. The Commission also has jurisdiction to require the data reporting requirements proposed in this proceeding because Section 218 authorizes the Commission to obtain from carriers “full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.” Furthermore, Section 220(c) grants the Commission access to all information kept by carriers, including the call attempt data that must be reported under the Commission’s proposed rules.

The Commission also has statutory authority to apply the proposed rules to both one-way and interconnected voice over Internet Protocol (“VoIP”) providers, even if the Commission ultimately determines that VoIP services are information services. Exercising its ancillary authority under Title I of the Act, the Commission decided “to prohibit blocking of voice traffic to or from the PSTN by [VoIP] providers.” *Connect America Fund*, 26 FCC Rcd 17663, 18029 ¶ 974 (2011). The effective performance of the Commission’s Title II duties required the Commission to exercise its Title I ancillary authority to prohibit call impairment by VoIP

providers. As the Commission explained, if it did not prohibit call impairment by VoIP providers, a telecommunications carrier could partner with a VOIP provider and ask the VoIP provider to block calls to rural areas. *Id.* at 18029 n.2043. The Commission further noted that the “blocking or degrading of a call from a traditional telephone customer to a customer of a VoIP provider, or vice-versa, would deny the traditional telephone customer the intended benefits of telecommunication interconnection under section 251(a)(1).” *Id.* Just as the Commission had Title I ancillary authority to prohibit call blocking by VoIP providers, the Commission has ancillary statutory authority to apply the proposed record keeping and data reporting requirements to both one-way and interconnected VoIP providers in order to enforce that call blocking prohibition.

The Commission may employ ancillary authority when two conditions are met: (1) the Commission has subject matter jurisdiction over the service under 47 U.S.C. § 152(a) and (2) the assertion of authority is reasonably ancillary to the effective performance of the Commission’s statutory responsibilities. *United States v. Southwest Cable Co.*, 392 U.S. 157, 177-78 (1968). Both of the conditions for ancillary authority are satisfied here. First, the Commission’s subject matter jurisdiction under 47 U.S.C. § 152(a) extends to “all interstate and foreign communication by wire or radio.” Both one-way and interconnected VoIP providers are subject to the Commission’s ancillary jurisdiction because they transmit communications by wire or radio. The second condition is also met because requiring all VoIP providers to retain and report call attempt data to the Commission is reasonably ancillary to the effective performance of the Commission’s responsibilities to prevent call degradation that violates Title II of the Act. The Commission clearly has authority to apply the proposed data retention and reporting requirements upon telecommunications carriers in order to prevent call degradation that violates

Sections 201(a), 201(b), 202(a), and 251(a)(1) of the Act. If the Commission ultimately decides that VoIP services are telecommunications services, the Commission would also have Title II authority to apply the proposed rules to VoIP providers. However, even if the Commission ultimately determines that VoIP services are information services, the Commission has Title I ancillary authority to apply the proposed rules to all VoIP providers. In addition, as discussed in greater detail below, the Commission should exercise Title II and ancillary Title I authority to apply minimum federal standards for call quality and call completion to all service providers, including VoIP providers.

III. The Commission Should Adopt Minimum Federal Requirements for Call Quality and Call Completion.

Before deregulation and consolidation in this country's telecommunications industry, the major local and long distance carriers exhibited a pride in ensuring the highest call quality and best call completion record in the world. The U.S. telephone industry used to brag about providing a high level of service quality, known as the five 9s (meaning calls were completed 99.999% of the time); a standard that was the envy of other industries and foreign nations. However, as telephone service in this country became dominated by a few national wireless carriers and a handful of large landline carriers (which now enjoy greater deregulation), calls placed to small towns and rural areas have been increasingly blocked, impaired by degraded call quality, interrupted by false busy signals or misleading error messages, or vitiated by inaccurate Calling Party Number forwarding.

In the *NPRM*, the Commission proposed a new report for telecommunications carriers to file with the Commission to collect information about the call completion problems.⁵ The

⁵ *NPRM* ¶ 20.

Commission also requested comments on different approaches that may be more effective.⁶ While INS commends the Commission's efforts to collect information about this serious problem, INS believes that the immediacy and urgency of the problem requires a more direct solution. In addition to the proposed data retention and reporting requirements, INS recommends that the Commission adopt federal standards for call completion and call quality that would provide bright-line requirements that the Commission could more easily enforce.

Given the sophistication of our nation's telecommunications network, there is little excuse for numerous call failures, particularly if the call impairment is intentionally caused by an intermediary carrier. In focusing solely on the differential in uncompleted calls to rural areas and urban areas,⁷ the Commission's proposals imply that it is acceptable for an intermediary carrier to block calls to rural exchanges so long as it blocks the same percentage of calls to urban exchanges. However, even a small number of call failures wrongfully shifts the blame to the terminating rural LECs, permitting consumers to perceive rural LECs as the cause of the call failures, when their facilities were functioning properly and were not the reason for the impairment of the consumers' calls. Therefore, INS urges the Commission to adopt a new regulation that imposes a federal standard establishing the maximum number of uncompleted calls to a local exchange that is acceptable during a single month. This alternative approach will more effectively encourage service providers to proactively cooperate in taking the necessary corrective actions to prevent uncompleted calls that exceed the federal standard.

Similar to the standard for call completion, the Commission should also consider adopting a federal standard for call quality. INS urges the Commission to consider call communications quality standards in this proceeding, rather than postpone such consideration to

⁶ *NPRM* ¶ 14.

⁷ *NPRM* ¶ 20.

a future proceeding. As the Commission correctly observed, “even when calls to rural areas in particular do get answered, the communications quality of the call may be so poor as to render the communication between the calling and called parties unsuccessful.”⁸ Loud screeching sounds or static often make it impossible to hear the other party to a call. Consequently, from the consumer’s perspective, there is little difference between an uncompleted call and an answered call during which you cannot hear the conversation. Therefore, the Commission should adopt a new rule establishing a federal minimum standard for call quality.

INS believes that the Commission should consider these approaches as a more effective means of safeguarding the quality and integrity of our country’s telecommunications network. These approaches would supplement, rather than replace, the data retention and reporting requirements proposed by the Commission. Minimum federal standards for call completion and call quality will help ensure a swift end to further call degradation.

IV. The New Rules Should Require a Monthly Electronic Exchange of Data with the Commission, Made Publicly Available and Consisting of All Call Attempts by Terminating Exchange and the Names of All Intermediary Providers.

In the *NPRM*, the Commission proposes new regulations that would require originating voice providers to keep records on call attempts for six months and to electronically file quarterly a call completion report with the Commission.⁹ The proposed report requires calculations that compare the monthly call answer rate for calls placed to rural telephone companies to the monthly call answer rate for calls placed to terminating carriers that are not rural telephone companies. The monthly call answer rate would be reported as a percentage, calculated by dividing the number of attempted calls during a particular month that result in an answered call by the total number of attempted calls during that month. The proposed report

⁸ *NPRM* ¶ 15.

⁹ *NPRM* ¶¶ 20, 22.

would require three types of call answer rates to be calculated: (1) for each rural telephone company operating company number (“OCN”) to which 100 calls were attempted during the month; (2) for the total call attempts to all rural telephone company OCNs to which 100 calls were attempted during the month; and (3) for the total call attempts to all companies with OCNs that are not rural telephone companies.

The Commission asks for comments as to whether it is reasonable for call answer rates to differ for calls placed to rural and urban OCNs.¹⁰ As discussed above, the same minimum federal standards should apply to both rural and urban calls. It is not reasonable for rural communications to be inferior to urban communications, particularly when the blocking of calls to rural areas and degradation of rural call quality is deliberate.

INS is concerned that a report involving the many calculations the Commission has proposed may be very costly and difficult to build. INS is not aware of readily available, affordable software for transferring the raw data and automating the calculations necessary for creation of the proposed report. Monitoring call answer rates can be achieved without the burden of building such a complex report by instead requiring a monthly electronic exchange of data with the Commission. Furthermore, the Commission should not require call attempts to be reported by terminating OCN. INS’ systems are unable to determine where and when the location routing number (“LRN”) is added to the call. The monthly data exchange should include all call attempts, and not just call attempts during peak periods. Call blocking and call quality degradation is not limited to peak periods. Furthermore, uncompleted calls are more likely to occur during peak periods due to a lack of capacity rather than as a consequence of intentional misconduct. Therefore, INS recommends a monthly electronic exchange of data with the

¹⁰ *NPRM* ¶ 13.

Commission consisting of all call attempts by terminating exchange, rather than by terminating OCN.

Under the Commission's proposal, an originating provider could exclude call attempts to a rural telephone company from its report if the originating provider made 100 or less call attempts to that rural telephone company during a month. Given the small size of many rural exchanges, INS is concerned that the 100 call attempt threshold could exclude from the reports a high percentage of calls intentionally blocked to small, rural exchanges. In this era of advanced technologies, it's hardly acceptable for just one call to be intentionally blocked, let alone ignore the intentional blocking of up to 100 calls per month. Even small towns deserve good telephone service.

The Commission asks for comments on whether its proposal to measure data by month, but require quarterly reports, is appropriate.¹¹ The data in a quarterly submission could already be stale and of little use by the time it is filed with the Commission. Therefore, INS recommends that the call attempt data be reported to the Commission monthly.

The Commission also asks whether the filed reports should be kept confidential by the Commission or made available to the public.¹² Public reports would be far more effective in deterring and resolving call blocking. Originating carriers may have a greater incentive to take corrective action and monitor intermediary service providers more diligently if they know that their customers and the press will be able to review their reports to the Commission. Rural LECs will also be better able to identify the cause of the uncompleted calls if they are permitted to review the data filed with the Commission. To help better identify the source of call blocking, it is also important that the Commission require the originating provider to publicly report the

¹¹ *NPRM* ¶ 21.

¹² *Id.*

name of the underlying carriers and intermediary service providers that were involved with the uncompleted call.

V. The New Rules Should Broadly Apply to All Intermediary Service Providers Regardless of Size.

The Commission asks for comments on whether it should extend its proposed record-keeping and reporting requirements to intermediary carriers, resellers, and one-way VOIP providers.¹³ In order to be useful, we believe that the new regulations should also apply to these entities. Multiple intermediary carriers can be involved in the handling of a single call, and it has become common practice for the originating IXC to blame a downstream intermediary provider for any call blocking. If a call is handed-off from the originating IXC to an intermediary carrier, which then hands the call off to a second intermediary carrier, neither the originating LEC nor the originating IXC will know the identity of the second intermediary carrier, which may be responsible for the call blocking. Therefore, it will be important that each intermediary provider file a report identifying the name of the intermediary provider to which it handed-off the call.

The Commission should also require non-facilities based resellers to submit the proposed call attempt data. INS buys terminating service from a non-facilities based reseller, which selects the least expensive facilities-based intermediary carrier to actually terminate INS' long distance calls. Under such circumstances, only the reseller knows the identity of the intermediary carrier which is responsible for completing the call.

The Commission should narrowly define any exemption for VOIP service providers. Both one-way VOIP providers, such as Magicjack, and two-way VOIP providers should be required to report the call attempt data if they expect to use another carrier to complete the call. The Commission's proposed rule 64.2101(h), defining "originating long distance voice service

¹³ *NPRM* ¶ 24.

provider,” would exempt VOIP carriers if a call does not traverse the PSTN. Consequently, under that proposed rule, any VOIP carrier can exempt itself from the data reporting requirement by blocking or choking a rural call before it gets to the PSTN. To prevent such gaming of the rules, a VOIP service provider should only be exempt if it completes the call itself over VOIP all the way to the called party.

Intermediary service providers, regardless of size, should be subject to the proposed data reporting requirement. IXCs or least cost routers with few end user subscribers can still block or impair a large number of calls.

VI. Data Should Be Measured By Terminating Exchange

The Commission proposes that all facilities-based originating providers with more than 100,000 subscribers record and retain for six months the following data on each long distance call attempt:

- (1) Calling party number;
- (2) Called party number;
- (3) Date;
- (4) Time;
- (5) An indication whether the call was handed off to an intermediate provider or not and, if so, which intermediate provider;
- (6) An indication whether the called party number was assigned to a rural telephone company or not and, if so, the OCN of the rural telephone company;
- (7) An indication whether the call was interstate or intrastate; and
- (8) An indication whether the call was answered or not.

The Commission requests comments on these proposed record-keeping and record-retention requirements.¹⁴ As noted above, this data should be recorded by terminating exchange, rather than by terminating company OCN, because carriers like INS are unable to determine where and when the LRN is added to the call.

The Commission also requested comment on whether originating providers typically retain this information for failed attempts.¹⁵ A recent formal complaint proceeding before the Iowa Utilities Board, which is attempting to stop the blocking of calls to health care facilities, highlights how the lack of retained data concerning failed calls impedes the ability to investigate and halt call blocking. Although the Rehabilitation Center of Allison, Iowa has suffered difficulties in receiving calls and faxes from other health care facilities for two years, CenturyLink has asserted that “it has no evidence on its network of dropped calls to the facility” and that “it has no means of investigating whether calls were dropped.” *Order Granting Request for Formal Proceeding and Setting Procedural Schedule*, Docket No. FCU-2012-0019 (C-2012-0129, slip op. at 13 (IUB Mar. 15, 2013) (“*IUB Call Blocking Investigation*”) (attached hereto as **Exhibit 1**). Further obstructing a determination of the cause for the uncompleted calls to Iowa health care facilities, CenturyLink has refused to disclose the identity of its underlying carrier involved with those blocked calls. *Id.* at 18. CenturyLink’s so far deficient response to the Iowa Utilities Board’s investigation underscores the urgent need for the Commission to require that all relevant service providers, including CenturyLink, retain and report data on dropped calls, have a means of investigating dropped calls, and publicly disclose in monthly reports to the Commission the identity of all underlying carriers and intermediate service providers.

¹⁴ NPRM ¶ 22.

¹⁵ NPRM ¶ 23.

VII. The Commission's Proposed Safe Harbors Would Deprive the Commission of the Data Necessary to Investigate and Resolve the Uncompleted Call Problem.

The Commission proposes two safe harbors. The first safe harbor would exempt any carrier from keeping data or filing the proposed reports if the carrier certifies on an annual basis that (1) the carrier limits by contract the number of intermediate providers in the call path to two intermediate providers and (2) that the carrier has in place a process for monitoring its intermediate providers. The Commission seeks comments on whether such an exemption is appropriate.¹⁶ INS does not believe it is.

This safe harbor would likely exempt most of the major carriers from the new regulations. Furthermore, such a safe harbor would deprive the Commission of the data on failed calls necessary to investigate and find a solution to uncompleted calls. Again, CenturyLink's response to the Iowa Utilities Board investigation is telling. While CenturyLink told the Iowa Utilities Board that CenturyLink has standards and metrics to monitor its underlying carriers, such monitoring did not prevent the blocking of calls to Iowa health care facilities. *IUB Call Blocking Investigation* at 7. Furthermore, as noted above, CenturyLink asserts that it has not retained any data on dropped calls that would assist the Iowa Utilities Board's investigation despite such monitoring of intermediary providers. The gamesmanship that would be made possible by the Commission's proposed safe harbor is further illustrated by recent IXC arguments that the Commission's current regulations do not make originating providers responsible for the misconduct of intermediary carriers unless the IXC directly hired that intermediary carrier. This country's major IXCs need to be responsible for taking corrective action even if the call impairment is caused by a second downstream intermediary carrier which the IXC did not directly hire. Therefore, originating IXCs should be required to retain the

¹⁶ *NPRM* ¶ 34.

necessary call attempt data and report it to the Commission regardless of the number of intermediary carriers and any metrics, standards, or other monitoring.

The second safe harbor proposed by the Commission would exempt a service provider from submitting any reports and reduce the duration for retaining data to three months if the service provider certifies on an annual basis that over the last 12 months the number of rural uncompleted calls (to rural LECs with more than 100 monthly call attempts) do not exceed urban uncompleted calls by a minimum standard. The first minimum standard in the certification proposed by the Commission would be that the average call answer rate for the aggregate of rural LECs (with more than 100 monthly call attempts) is no more than 2 percent less than the average call answer rate for all nonrural LECs in the same month. The second standard would compare the call answer rate for call attempts to individual rural LECs (with more than 100 monthly call attempts) to the average call answer rate for the aggregate of rural LECs (with more than 100 monthly call attempts). Specifically, the second minimum standard in the certification proposed by the Commission would be that the call answer rates for 95 percent of rural LECs (with more than 100 monthly call attempts) were no more than 3 percent below the average rural call answer rate.

The Commission requests comments regarding this second safe harbor.¹⁷ This proposed certification would also exempt most carriers from the new regulations and is not an adequate substitute for reporting the actual data to the Commission. Since a service provider would need the call attempt data in order to make such a certification, there is little additional burden in requiring the service provider to electronically transmit the data to the Commission and certify the accuracy of the data itself. This proposed safe harbor also suffers from the two flaws

¹⁷ *NPRM* ¶ 36.

discussed above. An originating carrier or intermediary provider should not be exempt from the reporting requirements because it blocks the same amount of calls to urban areas that it does to rural areas. There should be a zero tolerance for any intentional call degradation. Furthermore, any safe harbor should include certification covering call attempts to all rural LECs. Otherwise, a 100 monthly call attempt threshold would facilitate the blocking of calls to small, rural exchanges.

VIII. The Commission Should Broadly Define the Scope of Call Attempt Data Subject to the New Data Retention and Reporting Requirements

The Commission proposes that each call attempt that returns any type of User category cause value (such as “user busy,” “user not responding,” or “unallocated number”) be reported in total call attempts.¹⁸ Furthermore, under the Commission’s proposal, a call attempt would be considered answered when there is a “Call Completed” cause value of either 16 or 31. INS agrees with the Commission’s proposal to broadly define call attempts to ensure that investigations of uncompleted calls have access to the data necessary to resolve the problem.

The FCC requests comments on whether certain types of calls should be excluded from the proposed data retention and reporting requirements, such as calls to urban CLECs or short-duration calls of less than 2 seconds.¹⁹ INS believes that data on short-duration calls should be retained and reported to ensure that call attempt data is complete and to avoid excusing call blocking based on the duration of the call. INS also believes that call attempt data should be retained and reported for each urban exchange, rather than by the OCN of urban CLECs, due to the difficulty INS has in measuring such data by terminating OCN.

¹⁸ *NPRM* ¶ 29.

¹⁹ *NPRM* ¶¶ 26, 30.

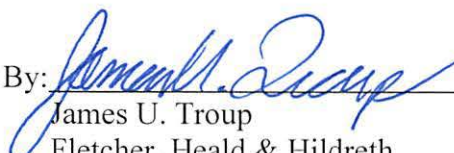
IX. It is Premature for the Commission to Consider an Expiration Date For The New Regulations

The Commission requests comments on whether these new data retention and reporting requirements should automatically expire when terminating access charges have been reduced to bill-and-keep.²⁰ Alternatively, the Commission asks whether these new rules should remain in effect until the Commission modifies them. Because of the many more miles of telephone plant needed to provide service in rural areas, it will always be more expensive to complete a call to a rural resident than to a called party in an urban metropolitan area. Consequently, even when terminating access charges are zero, IXC's and intermediary service providers will still have a profit incentive to block calls to rural areas and avoid incurring the associated costs of transporting and completing such rural calls. INS, therefore, believes that the Commission should not adopt an expiration date for these new regulations at this time.

X. Conclusion

The Commission's proposed data retention and reporting requirements are a necessary first step toward giving back to consumers, in all parts of our country, the right to communicate easily without the frustration of uncompleted calls or false error messages. However, as INS has demonstrated above, there is also an urgent need for the Commission to adopt minimum standards of call quality and call completion that the Commission can immediately enforce.

Respectfully submitted,

By: 
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²⁰ NPRM ¶ 38.

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Attorney for Iowa Network Services, Inc.

Dated: May 13, 2013

EXHIBIT 1

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REHABILITATION CENTER OF ALLISON, IOWA	DOCKET NO. FCU-2012-0019 (C-2012-0129)
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**ORDER GRANTING REQUEST FOR FORMAL PROCEEDING
AND SETTING PROCEDURAL SCHEDULE**

(Issued March 15, 2013)

I. BACKGROUND

On December 27, 2012, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a request for a formal proceeding regarding a rural call completion complaint. The petition has been identified as Docket No. FCU-2012-0019. Pursuant to Iowa Code § 476.3, the petition will be granted. The petition is based on informal complaint proceedings conducted pursuant to § 476.3 and 199 IAC chapter 6 in a matter identified as File No. C-2012-0129. The record in the informal proceedings can be summarized as follows.

On September 25, 2012, Kathy Miller, Administrator of the Rehabilitation Center of Allison, Iowa (the Allison facility), filed a complaint with the Board alleging that the facility was not receiving phone calls and faxes from the Shell Rock Clinic in Shell Rock, Iowa, and the Waverly Health Center in Waverly, Iowa. Ms. Miller stated that persons calling the Allison facility from the Shell Rock Clinic and Waverly Health

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Center locations have reported that sometimes the Allison facility's phone never rings, and that sometimes it rings, but no one answers. Ms. Miller also stated that, according to the facility's local telephone provider, Dumont Telephone Company (Dumont), the source of the problem is with long distance carriers and that both the Shell Rock and Waverly facilities used the same long distance carrier, AireSpring, Inc. (AireSpring). Dumont describes AireSpring as a reseller of Qwest Corporation, d/b/a CenturyLink (CenturyLink), services.

Board staff forwarded the complaint to Dumont, Iowa Network Services, Inc. (INS), CenturyLink, and AireSpring for their response. (INS provides a connection between interexchange carriers and Dumont to deliver toll calls.) On October 12, 2012, INS submitted a response saying that according to its engineering department, there were no calls from the Waverly Health Center's number to the Allison facility's number. INS stated that it tested the numbers involved and concluded that the call termination issues occurred before the calls reached its network. Explaining that it can only report on calls that reach its network, INS stated it shows calls from the Waverly Health Center's number and the Shell Rock Clinic's number completing to the Allison facility's number.

CenturyLink responded on October 15, 2012, stating that after receiving the complaint, its network department conducted an investigation on calls provided by CenturyLink long distance access. CenturyLink indicates call records for the telephone numbers in question showed the calls had duration with no report of any

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failure. CenturyLink also stated the routing records showed the calls were routed using an underlying carrier. CenturyLink stated its technician made test calls with the underlying carrier and all calls completed successfully. In addition, CenturyLink stated it attempted to place test calls with the customer, but was not able to get calls returned to schedule retesting. CenturyLink stated its own retesting showed no additional issues for completing the calls to the Numbering Plan Area Code (NPA) Central Office Exchange Code (NXX).

On October 17, 2012, AireSpring responded, stating that it conducted a thorough search of its systems, including billing, order, and carrier databases and document management systems for the queried information, but no information could be located. According to AireSpring, this means that the numbers, individuals, and/or businesses are not within AireSpring's custody or control. AireSpring further stated that any telecommunication problems or malfunctions were beyond AireSpring's ability to look at, find, correct, or control in any way.

Dumont submitted a response on October 18, 2012, stating that on October 16, it conducted a series of tests in cooperation with technicians from Butler-Bremer Communications of Shell Rock, INS, and Waverly Health Center. The tests consisted of originating voice and fax calls from the Shell Rock and Waverly facilities and terminating all calls to the voice and fax numbers at the Allison facility. Dumont reported the tests resulted in all calls terminating properly on October 16, 2012. Dumont stated it is confident that all voice or fax calls originated at the Shell Rock

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location via the Butler-Bremer network terminate in Allison correctly because INS can monitor the entire route for that call type.

Dumont also stated that while testing showed that the network delivered calls properly on a particular date, it is not convinced the problem is resolved. Dumont noted Waverly Health Center staff reported that they have experienced this trouble for over two years and have reported it to CenturyLink multiple times. Dumont stated the trouble is fixed immediately, but then returns after several weeks or months. According to Dumont, AireSpring is the long distance provider for the Waverly facility. Butler-Bremer Communications of Shell Rock (Butler-Bremer) is the long distance provider for landlines at the Shell Rock facility, while AireSpring is the long distance provider for the Shell Rock Facility. (Dumont identifies the Iowa Communications Network as the originating service provider for the Shell Rock facility.)

On October 19, 2012, staff sent a letter to AireSpring and CenturyLink asking for more information that would help the Board understand the causes of the call termination issues involved in this complaint. In the letter, staff observed that call termination problems in rural areas may relate to the practice of least cost routing of long distance traffic to rural areas of the country. Staff noted that because rural areas traditionally have higher costs associated with the termination of long distance traffic, providers that route long distance calls may wish to avoid higher termination costs by routing long distance calls in a way to minimize costs. The practice, known as least cost routing, may ultimately result in poor service quality and lost calls.

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Staff also noted that because it appears that rural call termination issues may recur, staff would welcome a better way for local exchange carriers to quickly and more readily address the issues when they learn that their local exchange customers are experiencing call termination issues. To that end, staff asked CenturyLink and AireSpring to provide specific contact information for personnel who can promptly address call routing issues when contacted.

On November 2, 2012, CenturyLink provided a response explaining its reasons for using underlying carriers and the performance standards CenturyLink requires its underlying carriers to meet. CenturyLink also discussed the use of routing tables in call processing and how changes to the routing tables can cause call routing issues to recur. CenturyLink explained it used its Operations processes to address the call failure in this case. Also, CenturyLink stated that because it does not have any records of calls that did not complete, it can only investigate records of calls that did complete. CenturyLink stated that technicians made test calls with the underlying carrier and those calls completed successfully. CenturyLink explained it made a routing change for calls completing to a certain NPA NXX and tested for call completion after the change. CenturyLink provided the contact information staff had requested.

On November 7, 2012, AireSpring provided an additional response stating that after further investigation, it agreed with Dumont's suggestion that the problems identified in the complaint are caused by poor origination service. Dumont noted it

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does not have access to the party that originated the calls that allegedly did not complete. AireSpring provided the requested contact information. In a separate e-mail response, AireSpring also clarified its response by stating that Waverly Health Center has a point-to-point private line connection with CenturyLink and that, as a reseller of Internet service, AireSpring does not handle any call traffic.

On November 14, 2012, Board staff participated in a telephone call with CenturyLink personnel discussing CenturyLink's responses to the complaint. CenturyLink described "call looping," which may occur at any point in the call flow process after the call leaves the originating carrier's network. CenturyLink distinguished call looping from routing tables, which determine the routes to be used to process the calls across the network. CenturyLink observed that changes in routing tables create the possibility that call routing issues can recur. CenturyLink stated that it conducts tests to make sure calls are not looped back to CenturyLink after origination. CenturyLink explained further that it was not able to find records for the calls that Ms. Miller stated are not completing and identified other possible explanations for why the calls are not completing, including the possibility that the calls are being made using other carriers by using either dial-around services or wireless.

According to CenturyLink, Dumont was incorrect in stating that AireSpring resells CenturyLink long distance service to the Waverly Health Center. CenturyLink explained that AireSpring is not involved in providing long distance service to the

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Waverly facility. CenturyLink states that the carrier information for the Waverly facility is confidential customer proprietary network information (CPNI). CenturyLink explains it did not identify its underlying carrier in its October 15, 2012, submission because it concluded that the underlying carrier was not at fault. With respect to its use of underlying carriers, CenturyLink states that the carriers must pass testing and agree to metrics and are held accountable for not meeting the standards.

CenturyLink explains that its underlying carriers are not necessarily the least expensive.

On December 14, 2012, staff issued a proposed resolution. Staff reviewed the information provided by the various carriers in their responses, noting that according to CenturyLink, there are no current issues with completion of calls to the Allison facility. Based on its analysis of the complaint and the responses, staff indicated that it did not believe that AireSpring played a role either as a reseller of CenturyLink's long distance service or as an underlying carrier selected by CenturyLink to deliver long distance calls. Staff also concluded that neither INS nor Dumont played a role in misrouting of calls. Staff observed that the response from INS suggests that the calls in question never crossed its network. And Dumont's role as the terminating local exchange carrier suggests that Dumont would not be responsible for any call completion issues.

Regarding CenturyLink's role, staff observed that it appears that CenturyLink has no records to investigate when calls do not complete. Staff noted that the

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company can make changes to the routing tables to correct call completion problems, but problems can recur if the tables are changed again. In staff's view, CenturyLink cannot say with certainty which of the underlying carriers is responsible for calls that did not terminate. Staff noted that CenturyLink appears to be working in good faith to address any complaints that are brought to its attention. Staff concluded that the call termination issues for the Allison facility appear to have been resolved but asked the consumer to continue to report any further call completion issues.

Staff also noted in its proposed resolution that it is generally agreed that the long-term resolution of the rural call termination situation must be addressed by the Federal Communications Commission (FCC).

On December 27, 2012, Consumer Advocate filed a petition for further investigation. According to Consumer Advocate, the problems reported by the Allison facility are not unique and are occurring with sufficient frequency and affecting a sufficient number of rural consumers to justify an investigation. In support, Consumer Advocate refers to the FCC's February 2012 Declaratory Ruling,¹ which identified a pattern of call completion and service quality problems with long distance calls to rural areas; a July 2012 resolution of the National Association of Regulatory Utility Commissioners (NARUC), which described call completion failure rates being 13 times higher in rural areas than in non-rural areas and noted that rural call termination issues persist; and a November 2012 press release of the National Exchange

¹ *In the Matter of Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135 (Rel. Feb. 6, 2012), "Declaratory Ruling," 27 FCC Rcd. 1351.

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Carriers Association, which described the call completion problem as a mounting epidemic. (Request for Formal Proceeding, pp. 8-9, ¶17.)

Consumer Advocate further states:

As observed in the FCC's declaratory ruling, the call completion problems can have dire consequences. Small businesses can lose customers who get frustrated when their calls don't go through. Urgent calls from friends and families can be missed. Schools may be unable to reach parents with critical alerts. Those in need of help may be unable to reach public safety officials. In addition, as here, health care facilities may be left without an ability to provide the care their patients need due to the failure of calls and faxes from one facility to another. As stated by both U.S. senators from Iowa, and 34 of their colleagues, "[w]e ... worry it is only a matter of time before this situation leads to tragedy."

(Request for Formal Proceeding, p. 9, ¶18.)

Consumer Advocate explains that in the Declaratory Ruling, the FCC discussed routing practices, including use of least cost routers, which might be causing the call completion problem, and identified possible enforcement tools for the FCC, including cease-and-desist orders, forfeitures, and license revocation.

Consumer Advocate further notes that NARUC observes in its July 2012 resolution that

[i]t appears that some carriers are not taking the declaratory ruling seriously ... [and] [t]he call termination issues seem unlikely to be resolved unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought

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by originating carriers faces serious consequences for such failures.

(Request for Formal Proceeding, p. 10, ¶ 20.)

Consumer Advocate contends that the file in this case raises more questions than it answers and there is still no answer as to who and what caused the difficulties experienced by the Allison facility. Consumer Advocate maintains there is conflicting information in the record as to the identity of the various carriers for the facilities, noting that Dumont states that AireSpring (a CenturyLink reseller) is the carrier for the Waverly facility, but AireSpring and CenturyLink deny this. Consumer Advocate notes that the record does not identify the carrier for either the Waverly or the Shell Rock facility. Consumer Advocate further states that while CenturyLink explains that the calls were routed using an underlying carrier(s), the record does not identify the underlying carrier(s). Also, while CenturyLink explains that it imposes performance requirements on its underlying carriers and states they must pass testing and agree to metrics and standards, the record does not disclose the specifics of any of that information.

Other things not established in the record, according to Consumer Advocate, include the routing tables, the processes CenturyLink uses to address call failures, and information about how the routing was changed for calls intended to reach the Allison facility. In response to CenturyLink's suggestion that the dropped calls may have resulted from using cell phones or a "dial around" number to call the Allison

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facility, Consumer Advocate notes that it does not appear that personnel at the Shell Rock or Waverly locations have been asked about that possibility.

Consumer Advocate also states that the possibility that an investigation may require accessing CPNI is not a reason to not pursue an investigation. Consumer Advocate points out that federal law allows for disclosure of CPNI in certain situations, noting in particular exceptions that allow disclosure "to protect users ... from fraudulent, abusive, or unlawful use of, or subscription to, such services" or disclosures "required by law." (Request for Formal Proceeding, p. 12, ¶ 23, citing 42 U.S.C. §§ 222(d)(2), 222(c)(1).) Consumer Advocate points to Iowa Code § 476.3, a law requiring companies to respond to complaints, and suggests that protective agreements can be used to address concerns about disclosure.

Consumer Advocate acknowledges that the FCC plays a "central role nationally in resolving the problem long-term" (Request for Formal Proceeding, p. 13, ¶ 24), but argues there is an appropriate state role in responding to the problem. Consumer Advocate stresses that the Board has an interest in ensuring that calls are completed to rural destinations in Iowa and in preventing further decline in the quality of service provided in rural Iowa. Looking ahead, Consumer Advocate states that further investigation by the Board could uncover violations of the FCC's rules, which could be reported to the FCC with a request for enforcement. Consumer Advocate suggests that the FCC might be more likely to act upon the results of a Board investigation (which would serve to develop the information presently missing in this

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case and to resolve conflicts in the information). (Request for Formal Proceeding, p. 13, ¶¶ 25, 26.)

Finally, Consumer Advocate asserts that the Board has authority over the delivery of intrastate telecommunications services. Consumer Advocate suggests that Board investigation could reveal remedial or enforcement tools already at the Board's disposal or could show a need for new law or regulations. Consumer Advocate emphasizes the seriousness of the call completion problem:

The failure of calls and faxes to complete affects the health, safety and welfare of Iowans. Calls for help may not be answered, and in this case a rehabilitation facility is unable to communicate with two other local health care facilities on patient needs.

An investigation will materially enhance the ability of the Board and its staff to participate on a well-informed basis in ongoing workshops designed to assess the problem and effect a solution.

An investigation will materially contribute to solving the problem, because carriers will know they are being watched, with a view toward enforcement when needed.

(Request for Formal Proceeding, p. 14, ¶¶ 28-30.)

On January 16, 2013, CenturyLink responded to the request for formal proceeding stating a formal proceeding is not necessary. According to CenturyLink, Consumer Advocate's assertion that this complaint reveals a broad problem is an indictment of the entire industry of interexchange carriers. CenturyLink asserts the FCC's response to the problem is adequate and further action by the Board is not needed. CenturyLink points out that in addition to the Declaratory Ruling already

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issued by the FCC, that agency is planning to initiate another rule making proceeding to address call completion issues.

Further, CenturyLink states that much of what Consumer Advocate asserts is speculative or not relevant to the issues raised in the Allison facility's complaint. CenturyLink restates its position that it has no evidence on its network of dropped calls to the facility and has received no complaints from its customers about specific calls that were not completed to the facility during the time period referred to in the complaint. CenturyLink emphasizes that it has no means of investigating whether calls were dropped and that its records for the relevant time show calls with duration were completed to the Allison facility. CenturyLink states that it conducted further testing and the test calls completed properly and that tests with underlying carriers also showed that all calls completed properly. CenturyLink disputes the relevance to this complaint of other uncompleted calls referenced by Consumer Advocate. CenturyLink states those anecdotes lack specificity and are not known to have originated on CenturyLink's network.

With respect to Consumer Advocate's suggestion that CPNI can be obtained and protected using protective agreements, CenturyLink suggests that disclosure of CPNI would not assist in "discovering why calls *might* have been dropped on CenturyLink's network where no record of these calls exist and no complaints of dropped calls were brought to CenturyLink's attention by its customers."

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CenturyLink states it conducted a full investigation of the alleged call completion issues and concluded that calls from the Waverly and Shell Rock facilities are completing as required to the Allison facility. CenturyLink further noted it has a vigorous process to respond to any call completion issues, as it believes it is a part of the duty it owes to customers to provide adequate service. CenturyLink states it took the following steps in this case to address the issue: (1) it fully investigated the issues raised in the complaint filed with Board; (2) it reviewed call records for the relevant time periods (and the review showed calls from the Waverly and Shell Rock facilities to the Allison facility that completed and had duration); (3) it reviewed its routing tables and changed routing; (4) it conducted testing with underlying carriers (and those tests showed that calls properly completed); and (5) it conducted test calls from the Waverly and Shell Rock facilities to the Allison facility and those calls completed properly.

CenturyLink states it will follow up on any issues raised in the future by its customers regarding the performance of their long distance service. CenturyLink also is willing to work with the Waverly and Shell Rock facilities to conduct additional testing (although it notes that those facilities did not respond to its previous attempts to conduct test calls). CenturyLink states that a formal proceeding is not in the public interest and is unnecessary.

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II. DISCUSSION

Both CenturyLink and Consumer Advocate refer to the Declaratory Ruling issued by the FCC in February of 2012 that addresses call completion issues, following up on the work of the FCC's Rural Call Completion Task Force that investigated the problem of calls to rural customers which are delayed or fail to connect. The FCC explained it was issuing the Declaratory Ruling in response to requests for action and in response to evidence showing "a pattern of call completion and service quality problems on long distance calls to certain rural areas" and intended "to clarify the scope of the Commission's prohibition on blocking, choking, reducing or restricting telephone traffic." (Declaratory Ruling at ¶ 1.) The FCC clarified that its prohibition against blocking, choking, reducing, or restricting telephone traffic extends to routing practices that have those effects. (Declaratory Ruling, ¶3.) The FCC also clarified that such practices may constitute unjust and unreasonable practices in violation of section 201 of the Communications Act of 1934, as amended, and may violate a carrier's duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. (Declaratory Ruling, ¶ 4.) Finally, the FCC emphasized that carriers are responsible for the actions of their agents or other persons acting for or employed by the carriers, i.e., underlying providers. (Declaratory Ruling, ¶¶ 4, 15.) The FCC explained that it can take appropriate enforcement action pursuant to its statutory authority, including cease-

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and-desist orders, forfeitures, and license revocations, against carriers engaging in the prohibited activities discussed in the Declaratory Ruling.

In its most recent response to the complaint, CenturyLink noted that the FCC is planning a notice of proposed rulemaking (NPRM) to deal with the call completion issue. On February 7, 2013, the FCC released the NPRM. *In re: Rural Call Completion*, WC Docket No. 13-39, FCC 13-18 (Call Completion NPRM). The FCC seeks comment on rules to help address problems in completion of long-distance calls to rural customers. The FCC mentions evidence that retail long-distance providers may not be adequately examining the rural call completion performance that results from use of wholesale call delivery services by intermediate providers employed by the long-distance providers. The FCC intends to "consider measures to improve the Commission's ability to monitor the delivery of long-distance calls to rural areas and aid enforcement action." (Call Completion NPRM, ¶ 3.)

Noting that lack of data impedes investigations (Call Completion NPRM, ¶ 17), the FCC seeks comment on reporting and data retention requirements that would give the Commission information about a long distance provider's performance to certain areas. The FCC proposes to adopt rules that would require originating long-distance voice service providers to collect and retain basic information on call attempts and to periodically analyze and summarize call completion and report the results to the Commission. (Call Completion NPRM, ¶ 17.)

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In the NPRM, the FCC reviews the steps it has taken so far in response to the call completion problem. The FCC states it is conducting ongoing investigations of several long-distance providers and addressing daily operational problems reported by rural customers. (Call Completion NPRM, ¶11.) The FCC describes the Web-based complaint intake process that allow rural customers and carriers to alert the Commission about call completion problems and informs them how to file complaints.

NARUC representatives recently sent a letter dated February 11, 2013, to the FCC urging the agency to take immediate action against carriers acting contrary to the FCC call completion Declaratory Ruling. NARUC observes that since the FCC issued the Declaratory Ruling, the agency has not issued any cease-and-desist orders, forfeitures, license revocations, or fines.² The letter notes that "it is not unreasonable to expect enforcement activity in the face of continued and arguably increasing problems."

Even as investigation and enforcement measures proceed at the federal level, it is appropriate to take steps at the state level to respond to a problem with potential to disrupt calls to rural consumers in Iowa. Iowa Code § 476.3(1) provides that a public utility shall furnish "reasonably adequate service" in accordance with tariffs filed with the Board. That section also provides, in relevant part, that when Consumer Advocate files a petition for formal proceeding with the Board, the Board

² This statement was correct when NARUC made it. On March 12, 2013, the FCC announced that it had reached a settlement with Level 3 Communications, LLC, resolving an investigation into the company's rural call completion practices. The settlement includes call completion standards and a voluntary contribution to the U.S. Treasury in the amount of \$975,000.

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shall grant the petition if the Board determines that "there is any reasonable ground for investigating the complaint." Reasonable grounds for further investigation exist where there are numerous unanswered questions regarding the precise circumstances of a complaint.

The Board finds there are sufficient grounds to open a docket to conduct further investigation into this particular complaint. The Board agrees with Consumer Advocate that CenturyLink's response and the responses of other carriers involved have not answered all of the questions that the case presents. The record developed to date does not provide enough specific information for the Board to fully understand the roles and responsibilities of the various providers in causing (or correcting) the problems experienced at the Allison facility and related facilities. For example, it appears that CenturyLink has not yet provided as much information about the call completion problems in this case as it appears to have access to, including the identity of its underlying carriers. The Board anticipates that further investigation would allow the Board to better understand what tools are available to carriers in Iowa to prevent the kinds of call completion problems alleged in the complaint and to respond to problems as they occur. Docketing the complaint for further investigation will enable the Board to gather more specific information about CenturyLink's use of (and standards for) underlying carriers and extent to which use of certain underlying carriers and routing practices have contributed to call completion problems. These are only examples of the unanswered questions in this case; further investigation

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may identify other relevant questions. The Board finds that reasonable grounds have been shown for further investigation.

The Board will grant Consumer Advocate's petition for formal proceeding and will establish a procedural schedule. The Board anticipates that a traditional procedure with pre-filed testimony based on discovery conducted by the parties (with confidential information exchanged pursuant to protective agreements) and cross-examination of witnesses at a hearing would be useful in this case, but would consider suggestions for alternative ways to develop a record in this case, such as use of witness panels at a hearing or other procedures. Any party with a suggestion for how the Board should conduct further investigation of this matter may file a request for an alternative procedure on or before March 21, 2013. The Board will consider such requests and may modify the procedural schedule accordingly.

The Board expects that CenturyLink's testimony will focus on what happened in this case to cause the calls not to complete; CenturyLink's process to address call failures; CenturyLink's use of intermediate carriers to complete calls, performance standards for those carriers, and consequences for failure to meet those standards; call completion rates for the company in Iowa; the effect of changes to routing tables on call completion rates; and whether any routes in Iowa are problematic, among other issues. The procedural schedule also anticipates testimony from AireSpring, Dumont, and INS. While Board staff's proposed resolution indicates that AireSpring, Dumont, and INS did not cause the call completion problems at issue in this

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complaint, those companies may have access to information that will contribute to the Board's understanding of what happened in this specific case to cause the calls not to complete.

Any findings made in this matter to date are tentative and have been made only for the purpose of determining whether reasonable grounds exist for further investigation of the complaint. Final findings of fact will be made after the parties have had an opportunity to present any evidence and argument that may be relevant to this complaint.

III. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for formal proceeding filed by the Consumer Advocate Division of the Department of Justice on December 27, 2012, relating to File No. C-2012-0129, is granted pursuant to Iowa Code § 476.3. The matter is identified as Docket No. FCU-2012-0019. The issues for investigation are as identified in the petition, as described in the body of this order, and as they may develop during the course of the proceedings.
2. Any party proposing an alternative to the procedure established in this order shall file a request to modify the procedural schedule on or before March 21, 2013.
3. The following procedural schedule is established for this proceeding:

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- a. CenturyLink, AireSpring, Dumont, and INS shall file prepared direct testimony, with supporting exhibits and workpapers, on or before April 15, 2013.
 - b. Consumer Advocate shall file rebuttal testimony, with supporting exhibits and workpapers, on or before April 29, 2013.
 - c. CenturyLink, AireSpring, Dumont, and INS shall file reply testimony, with supporting exhibits and workpapers, on or before May 8, 2013.
 - d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on Wednesday, June 5, 2013, in the Board's hearing room at 1375 E. Court Ave, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515) 725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made. The parties are advised that the Board has reserved two days for the hearing in this matter.
 - e. The parties may file simultaneous initial briefs on or before July 3, 2013, and reply briefs on or before July 24, 2013.
4. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

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5. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination which have not been previously filed shall become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file the data request and response with the Board at the earliest possible time.

6. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the evidentiary record will be reopened and the evidence will become part of the record three days after the evidence is filed with the Board. All evidence filed pursuant to this paragraph shall be filed no later than three days after the close of the hearing in this proceeding.

UTILITIES BOARD/s/ Elizabeth S. Jacobs/s/ Darrell Hanson

ATTEST:

/s/ Joan Conrad
Executive Secretary/s/ Swati A. DandekarDated at Des Moines, Iowa, this 15th day of March 2013.